

REMARKS

The Examiner is thanked for the prompt and thorough review of the application. New claims 6-14 have been added. Claims 6-11 recite a method for lifting and moving a run of shelving having a plurality of shelving units placed in side-by-side relation. Support for these claims may be found in page 8 line 10 – page 17 line 21 of the previously amended specification, for example. In addition, claims 11-14 recite a method for lifting and moving a run of shelving having a plurality of shelving units placed in side-by-side relation. Support for these claims may be found in page 10 line 11 - page 11 line 3, as well as page 14 line 1 – page 16 line 2 of the previously amended specification, for example.

Accordingly, claims 1-14 are pending in the subject application. Claims 1 and 5 stand rejected under 35 U.S.C. §102(b) as being anticipated by Johnson. Claims 2-4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson in view of Sumida. Since none of the cited prior art discloses the claimed invention as recited in claims 6-14, these claims are patentable. Applicant respectfully requests allowance of the present application in view of the foregoing remarks.

Claim 1 is Patentable

The Examiner rejected independent claim 1 under 35 USC §102(b) as being anticipated by Johnson. Independent claim 1 recites the step of simultaneously imparting lifting actuation to a plurality of lift elements for lifting a movable frame section and the shelving engaged thereby, and simultaneously imparting lowering actuation to the plurality of lift elements for lowering of a second frame section and lowering of the run of shelving to the floor surface. Neither Johnson, nor any of the cited prior art references, alone or in combination, disclose these steps, and accordingly, independent claim 1 is patentable.

Johnson discloses a book shelf moving apparatus 10 with a “pair of independent units” (col. 2, line 50) 12a,b positioned along opposing sides of the book shelf to be lifted (Col. 4, lines 52-53). Within each independent unit 12a,b is a “pair of independent lifting units,” (Col. 3, lines 2-3) such as a pair of hydraulic jacks 42,44 mounted on opposite sides of a support bar 36, which connects vertical spaced-apart standards 14,16 (col. 4, lines 61-65; col. 5, lines 27-29; col. 5, lines 62-66; see FIG. 2). The independent hydraulic jacks 42,44 are individually coupled to a cross bar 50 by respective contact members 46,48 (Col. 5, lines 62-66; see FIG. 2). The cross bar 50 includes respective guide members 52,54 which extend into respective openings 60,62 of the vertical standards 14,16. Upon activation of the independent pair of hydraulic jacks 42,44 within each independent unit 12a,b, the guide members 52,54 positioned within the respective openings 60,62 ensure that the cross bar 50 rises or falls in the plane of the vertical members 14,16: “As jacks 42 and 44 provide lifting or lowering movement to lifting contacts 46 and 48, the cross bar 50 moves up or down within the plane of the support standards 14 and 16 as constrained by the guide members 52 and 54 riding within the support standards 14 and 16.” (Col. 6, lines 14-18)(emphasis added). Based upon this constraint of the

guide members 52,54 within the vertical members 14,16, “the cross bar support 50 simultaneously lifts the end and intermediate cross bars 64 and 84 and their associated lifting members 78, 80 and 88. Movement of the lifting members 78,80, and 88 directly lifts those vertically support standards that they engage, thereby cooperatively lifting the entire book shelf unit from opposite sides thereof” (Col. 7, lines 55-61).

Independent claim 1 recites the steps of simultaneously imparting lifting actuation to a plurality of lift elements for lifting a movable frame section and the shelving engaged thereby, and simultaneously imparting lowering actuation to the plurality of lift elements for lowering of a second frame section and lowering of the run of shelving to the floor surface. The Examiner contended that portions of Johnson (Col. 7, lines 49-61; Col. 7, lines 63-66), discussed above, respectively disclose these steps. The Examiner has respectfully mischaracterized the Johnson reference. As discussed above, Johnson expressly teaches a pair of independent units 12a,b (see FIG. 1) on opposite sides of the book shelf to be lifted, with each unit having an independent pair of hydraulic jacks 42,44. Additionally, Johnson teaches that the cross bar 50, not the independent pairs of hydraulic jacks 42,44, is simultaneously lifted, and that this simultaneous lifting of the cross bar 50 is effected by the constraint of the guide members 52,54 within the support standards 14,16. The Examiner has seemingly confused “simultaneous imparting lifting actuation to a plurality of lifting elements,” as recited in independent claim 1, with simultaneous lifting of the cross bar 50 based upon the constraint of the guide members 52,54 within the support standards 14,16. Indeed, Johnson’s teaching of the independent pairs of hydraulic jacks 42,44 expressly teaches away from the steps of simultaneously imparting lifting actuation to a plurality of lift elements for lifting a movable frame section and the shelving engaged thereby, and simultaneously imparting lowering

actuation to the plurality of lift elements for lowering of a second frame section and lowering of the run of shelving to the floor surface, as recited in independent claim 1.

Accordingly, independent claim 1 is patentable. In view of the patentability of independent claim 1, it is also submitted that all of its dependent claims, that recite yet further distinguishing features, are also patentable. These dependent claims require no further discussion herein.

Claims 2-4 are Patentable

The Examiner rejected claims 2-4 under 35 USC §103(a) as being unpatentable over Johnson in view of Sumida. Based on the patentability of independent claim 1, as argued above, claims 2-4 are patentable. Additionally, neither Johnson, nor Sumida, alone or in combination, discloses the claimed invention as recited in claims 2-4, and accordingly, claims 2-4 are patentable.

Claim 2 recites the steps of causing lifting and lowering actuation of a controllable fluid supply for simultaneous communication of pressurized fluid from the controllable fluid supply to each fluid energized lift element for respective simultaneous expansion and bleeding of each fluid energized lift element for lifting of a second frame section and the shelving engaged thereby. The Examiner conceded that Johnson fails to disclose these recited steps and looked to Sumida to provide these noted deficiencies.

Sumida discloses a materials handling vehicle 1 with a pair of hydraulic piston cylinders (21,21')(22,22') positioned on adjacent ends of the vehicle 1 (Col. 3, lines 60-61; FIG. 2). The hydraulic piston cylinders (21,21')(22,22') include a respective wheel 24,24' coupled to a top thereof, and a respective chain 25,25' which passes around the wheel 24,24'

and a subsequent wheel 33,33', before connecting to opposing ends of a lifting frame 13 (Col. 3, line 60 – Col. 4 line 10). When the hydraulic piston cylinders (21,21')(22,22') are activated, and the lifting frame 13 rises, a pair of grooved wheels 28 engage a vertical guide rail 29 to ensure that the lifting frame 13 “is guided in its vertical path with a low frictional resistance” (Col. 4, lines 45-50). A control means for both pairs of hydraulic piston cylinders (21,21')(22,22') supplies hydraulic fluid from a common reservoir 38, and includes a pair of conduits 44,46 which inter-connects control components (ie. tubes 40,40'; valves 41,41'; etc.) for the respective pairs of hydraulic piston cylinders (21,21')(22,22') (FIG. 6; col. 5, lines 20-70).

The Examiner contended that it would have been obvious to modify the independent pairs of hydraulic jacks 42,44 of Johnson positioned within the independent units 12a,b with the control means for the two pairs of hydraulic piston cylinders (21,21')(22,22') of Sumida to “safely and evenly lift the article regardless of weight distribution therefore reducing the likelihood of the article tipping or falling causing potential injury to the operator.” (Office Action, p. 4). However, as discussed above, Johnson expressly teaches away from a commonly controlled pair of hydraulic jacks 42,44 within the units 12a,b on opposing sides of the book shelf, as Johnson expressly teaches two pairs of independent hydraulic jacks 42,44 positioned within independent units 12a,b. In *KSR International Co. v. Telefax, Inc.*, 550 U.S. ____ (2007) at 13, the U.S. Supreme Court cited with approval to *United States v. Adams*, 383 U.S. 39, 40 (1966), where the claimed invention was not obvious because the prior art expressly taught away from combining certain known elements, and thus the Court held that discovering a successful means of combining them was more likely to be nonobvious. *Adams* at 51-52 (cited with approval in *KSR* at 12). Similarly, Johnson expressly teaches away from

the Examiner's proposed modification of a common control means for the "independent" pairs of hydraulic jacks 42,44, including a pair of conduits to connect the control means for each "independent" pair of hydraulic jacks 42,44 to ensure that an equal quantity of hydraulic fluid is delivered to each "independent" pair of hydraulic jacks 42,44. Indeed, the proposed modification of Johnson is not obvious, since one of ordinary skill in the art would not discover a successful means of modifying Johnson, based upon its expressed teaching. Accordingly, independent claim 2 is patentable.

Accordingly, claim 2 is patentable. Claims 3-4 include recitations similar to those recitations of claims 2 discussed above. Additionally, the Examiner rejected claims 3-4 on similar grounds as claim 2. Accordingly, claims 3-4 are patentable for the same reasons as previously stated with regard to claim 2.

Thus, independent claim 1 is patentable over the prior art. In view of the patentability of independent claim 1, it is also submitted that its dependent claims, that recite yet further distinguishing features, are also patentable. These dependent claims require no further discussion herein.

Conclusion

In view of the remarks provided herein, it is submitted that all of the claims are patentable over the prior art. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any further informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

Dated: _____

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